CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 8, 2003

S. 627
Internet Gambling Funding Prohibition Act

As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on July 31, 2003

SUMMARY

S. 627 would prohibit gambling businesses from accepting credit cards, checks, or other bank instruments from gamblers who illegally bet over the Internet. The bill also would require financial institutions to take steps to identify and block gambling-related transactions that are transmitted through their payment systems. The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) would enforce the provisions of S. 627 as they apply to financial institutions. The Federal Trade Commission and the Department of Justice would be responsible for other enforcement actions. Finally, S. 627 would establish an Office of Electronic Funding Oversight in the Department of Treasury to issue regulations, coordinate federal programs, and implement certain initiatives.

Assuming appropriation of the necessary amounts, CBO estimates that implementing this legislation would cost about $1 million in 2004 and a total of $9 million over the 2004-2008 period. The bill could affect direct spending and revenues, but CBO estimates that any impact on direct spending and revenues would not be significant.

S. 627 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but any costs incurred by state, local, and tribal governments would not be significant and would not exceed the threshold established in that act ($59 million in 2003, adjusted annually for inflation).

The bill would impose new private-sector mandates, but CBO estimates that the direct costs of the mandates would fall below the annual threshold established in UMRA ($117 million in 2003, adjusted annually for inflation) in any of the next five years.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 627 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By Fiscal Year, in Millions of Dollars				
	2004	2005	2006	2007	2008
CHANGES IN SPENDING SUBJECT TO APPROPRIATION[a]					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	1	2	2	2	2

a. Enacting S. 627 also could affect direct spending and revenues by less than $500,000 a year.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 627 will be enacted in the fall of 2003 and that the funds authorized will be appropriated each year. The estimate of outlays is based on spending patterns for similar activities.

Spending Subject to Appropriation

Based on information from the Department of Treasury and other affected agencies, CBO estimates that implementing this bill would cost about $2 million a year, assuming appropriation of the necessary amounts. Most of this spending would be for the new Office of Electronic Funding Oversight; we expect that any additional spending by the Department of Justice and the Federal Trade Commission would be negligible. Because S. 627 would establish new federal crimes relating to Internet gambling, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects, however, that most cases would be pursued under existing state laws. Therefore, we estimate that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

Direct Spending and Revenues

The NCUA, the OTS, and the OCC charge fees to cover all their administrative costs; therefore, any additional spending by those agencies to implement the bill would have no net budgetary effect. That is not the case with the FDIC, however, which uses deposit insurance premiums paid by banks to cover the expenses it incurs to supervise state-chartered institutions. (Under current law, CBO estimates that the vast majority of thrift institutions insured by the FDIC would not pay any premiums for most of the 2004-2013 period.)

The bill would cause a small increase in FDIC spending but would not affect its premium income. In total, CBO estimates that S. 627 would increase direct spending and offsetting receipts of the NCUA, OTS, OCC, and FDIC by less than $500,000 a year over the 2004-2013 period.

Budgetary effects on the Federal Reserve are recorded as changes in revenues (governmental receipts). Based on information from the Federal Reserve, CBO estimates that enacting S. 627 would reduce such revenues by less than $500,000 a year.

Because those prosecuted and convicted under the bill could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. Any additional collections are likely to be negligible because of the small number of cases involved. Because any increase in direct spending would equal the amount of fines collected (with a lag of one year or more), the additional direct spending also would be negligible.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 627 contains an intergovernmental mandate as defined in UMRA because it would preempt state laws and prohibit states from fully regulating gambling within their borders. Under the bill, any gambling done using the Internet would be regulated by the federal government, no longer allowing states to sanction and regulate Internet gambling within their own borders. Further, all Internet gambling, with the exception of horse and dog racing but including state-run lotteries, would be illegal. Since no state or tribal government currently sells lottery tickets over the Internet, CBO estimates that, over the next five years, the costs to state, local, and tribal governments resulting from the prohibition would not be significant; therefore, the mandate costs would not exceed the threshold established in UMRA ($59 million in 2003, adjusted annually for inflation).

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 627 would impose two federal mandates on the private sector. First, the bill would require designated payment systems to establish policies and procedures designed to identify and prevent transactions in connection with Internet gambling. Designated payment systems are defined in the bill to include any system utilized by businesses such as creditors, credit card issuers, or financial institutions to effect a credit transaction, an electronic fund transfer, or other transfer of funds. Information provided by representatives of the financial services industry indicates that such transactions can currently be identified through the use of codes. Most financial institutions are currently able to identify and block restricted transactions by using the coding system. Thus, CBO estimates that the private sector's cost to comply with the mandate would be small. There also could be direct savings to those entities subject to the mandate as the bill limits their liability arising from their compliance with the requirement.

Second, the bill would prohibit gambling businesses, with some exceptions, from accepting credit card payments or other bank instruments of payment from person who bet or wager over the Internet. At the same time, S. 627, would exempt such transactions, under certain conditions, involving bets or wagers placed, received, or otherwise made on an interstate or intrastate basis on a live horse or a live dog race; and class II gaming (bingo, etc.) or class III gaming (casino games) on Indian reservations. Such a prohibition would have only a limited effect because, under current federal and state law, most gambling businesses are generally prohibited from accepting bets or wagers over the Internet. Further, CBO expects that the incremental costs to the entities that would have to comply with the requirements of the bill to participate in the gaming would not be substantial. CBO estimates that the total direct costs for private-sector mandates in this bill would fall below the annual threshold established in UMRA ($117 million in 2003, adjusted annually for inflation).

PREVIOUS ESTIMATE

CBO has transmitted three cost estimates for legislation related to internet gambling. On April 1, 2003, CBO transmitted a cost estimate for H.R. 21, as reported by the House Committee on Financial Services on March 27, 2003; on May 16, CBO transmitted a cost estimate for H.R. 21 as ordered reported by the House Committee on the Judiciary on May 14, 2003; and on May 22, CBO transmitted a cost estimate for H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act, as ordered reported by the House Committee on Financial Services on May 20, 2003. The estimated cost of S. 627 is higher than those bills because of the costs associated with the activities of the proposed Office of Electronic Funding Oversight. CBO estimated no significant federal costs for the House bills.

Unlike H.R. 21 as ordered reported by the House Committee on the Judiciary and H.R. 2143 as ordered reported by the House Committee on Financial Services, S. 627 would not permit states to sanction and regulate Internet gambling within their own borders. Therefore, S. 627 contains a mandate in the form of a preemption that the other versions of the legislation did not. The different cost estimates reflect those differences.

The private-sector mandate in S. 627 on designated payment systems is similar to the mandate identified in the previous three estimates. CBO estimated that the total direct costs of mandates contained in the bills would fall below the annual threshold for private-sector mandates established in UMRA.

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